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6 MARK S. ADAMS, ESQ.  
7 CA State Bar No. 78706

8 **Attorneys for Plaintiff, Kimberly Beagle**

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA

11 **KIMBERLY BEAGLE,**

12 **Plaintiff,**

13 **vs.**

14 **RITE AID CORPORATION, a corporation;  
and DOES 1-100, inclusive,**

15 **Defendants.**

Case No.: CV08-1517-PJH

**DECLARATION OF MARK S. ADAMS IN  
OPPOSITION TO MOTION TO DISMISS  
DISABILITY HARASSMENT CAUSE OF  
ACTION FOR LACK OF SUBJECT  
MATTER JURISDICTION**

Date: Wednesday, June 4, 2008

Time: 9:00 a.m.

Dept.: Courtroom 3, 17<sup>th</sup> Floor

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18 I, MARK STEPHEN ADAMS, declare that:

19 1. I am an attorney at law duly licensed to practice law before all of the courts of the  
20 State of California and the United States District Court, Northern District of California, and am a  
21 partner with the law firm of Mayall, Hurley, Knutsen, Smith & Green, attorneys of record for  
22 Plaintiff, KIMBERLY BEAGLE.

23 2. I have personal knowledge of the matters set forth herein and, if called upon to do  
24 so, could and would competently testify thereto under oath.

25 3. Attached hereto as Exhibit E is a true and correct copy of the declaration that  
26 KIMBERLY BEAGLE signed in opposition to the motion to dismiss her second cause of action  
27 for disability harassment



## **EXHIBIT E**

1 MAYALL, HURLEY, KNUTSEN, SMITH & GREEN  
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8 **Attorneys for Plaintiff, Kimberly Beagle**

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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA

12 **KIMBERLY BEAGLE,**

13 **Plaintiff,**

14 **vs.**

15 **RITE AID CORPORATION, a corporation;**  
16 **and DOES 1-100, inclusive,**

17 **Defendants.**

**Case No.: CV08-1517-PJH**

**DECLARATION OF KIMBERLY  
BEAGLE IN OPPOSITION TO MOTION  
TO DISMISS DISABILITY  
HARASSMENT CAUSE OF ACTION FOR  
LACK OF SUBJECT MATTER  
JURISDICTION**

Date: Wednesday, June 4, 2008  
Time: 9:00 a.m.  
Dept.: Courtroom 3, 17<sup>th</sup> Floor

18 I, KIMBERLY BEAGLE, declare that:

19 1. I have personal knowledge of the matters set forth herein and, if called upon to do  
20 so, could and would competently testify thereto under oath.

21 2. On or about May 2006, I contacted the Department of Fair Employment and  
22 Housing (DFEH) by telephone to complain of the discrimination and harassment that I  
23 experienced while employed at the Rite Aid store in Fortuna, California. I told the DFEH  
24 employee about the incident that occurred on July 6, 2005, the sexual harassment that I  
25 experienced by Chris Young prior to that date, my report of sexual harassment to Rite Aid, and  
26 how I was treated poorly by Rite Aid and its employees after making my report and being  
27 diagnosed with Post Traumatic Stress Disorder. When I contacted the DFEH, I was not

1 represented by an attorney. As a result, I put my trust in the DFEH to guide me appropriately  
2 through the complaint process. After making my report, I was interviewed by a DFEH employee.  
3 A DFEH employee prepared my DFEH Complaint of Discrimination and mailed it to me for my  
4 signature. Believing the DFEH employee included all that was necessary to make my complaint  
5 of discrimination and harassment, I signed the DFEH Complaint of Discrimination on May 31,  
6 2006.

7 3. During the investigation of my complaint, I discovered that the DFEH employee  
8 made a mistake when typing up my complaints and inaccurately stated in Section I(D) of "The  
9 Particulars Are" section that Chris Young "put his face between my legs" when, in fact, it was  
10 Chris Young that pushed my head into his intimate area when I had leaned down to pick up a pen  
11 I dropped on the floor. When the DFEH Complaint of Discrimination was first sent to me in late  
12 May 2006, I also noticed the inaccuracy and reported it to the DFEH. I thought that the DFEH  
13 had made the appropriate change, but I later discovered that they had not. As a result, I spoke to  
14 the DFEH about the inaccurate statement in January 2007 and was told by DFEH employee,  
15 Jackie Jones, that my DFEH Complaint of Discrimination could be amended to change the  
16 inaccurate statement. Again, still not represented by counsel, the DFEH employee, Jackie Jones  
17 typed up the Amended DFEH Complaint of Discrimination and sent it to me for my signature.

18 4. At the time the Amended DFEH Complaint of Discrimination was sent to me,  
19 DFEH employee, Jackie Jones told me that it was my last chance to make any additions to my  
20 complaints of discrimination against Rite Aid. Concerned about her statement, I prepared a letter  
21 addressed to Jackie Jones on January 28, 2007. In preparing this letter, I intended to comply with  
22 her warning and add to the complaints described in the Amended DFEH Complaint of  
23 Discrimination that was sent to me. In the January 28, 2007 letter, I reported that Rite Aid  
24 continued to harass me after Chris Young admitted his wrongdoing and was fired. I reported that  
25 I was diagnosed with Post Traumatic Stress Disorder and that when I brought my disability  
26 papers to my work the supervisor, Cinda threw them in my face and accused me of forging the  
27 Doctor's signature. I also reported that Rite Aid denied me sick pay, and that Rite Aid and it's  
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1 employees spread lies about me throughout the community that were damaging to me and my  
2 children. The next day, I signed the Amended DFEH Complaint of Discrimination and returned  
3 it to the DFEH along with my January 28, 2007 letter. I recognize Page 2 of Exhibit A to  
4 Plaintiff's Request For Judicial Notice as a true and correct copy of my January 28, 2007 letter to  
5 Jackie Jones of the DFEH.

6 5. After sending the signed Amended DFEH Complaint of Discrimination and  
7 January 28, 2007 letter, I was not told by Jackie Jones or anyone else at the DFEH that my  
8 January 28, 2007 letter would not be considered effective to add to the Amended DFEH  
9 Complaint of Discrimination. Because no one at the DFEH said anything to the contrary, I took  
10 this to mean that my letter was appropriate and complied with any applicable requirements for  
11 adding to the Amended DFEH Complaint of Discrimination.

12 I declare under penalty of perjury under the laws of the State of California and United  
13 States of America that the foregoing is true and correct and that this Declaration was executed  
14 this day of May 14, 2008 at Fortuna, California.

15  
16 /s/ Kimberly Beagle  
17 KIMBERLY BEAGLE  
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